

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 09-6786

RONNIE SYLVIA,

Plaintiff - Appellant,

v.

TOMMY MADDOX; TONI BANKS; D. WEAVER; N. AUSTIN,

Defendants - Appellees,

and

KEITH WHITENER,

Defendant.

Appeal from the United States District Court for the Western
District of North Carolina, at Statesville. Graham C. Mullen,
Senior District Judge. (5:05-cv-00013-GCM)

Submitted: October 15, 2009

Decided: October 21, 2009

Before SHEDD, DUNCAN, and AGEE, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Jeffrey Michael Brandt, ROBINSON & BRANDT, PSC, Covington,
Kentucky, for Appellant. James Philip Allen, Assistant Attorney
General, Joseph Edward Elder, NORTH CAROLINA DEPARTMENT OF
JUSTICE, Raleigh, North Carolina, for Appellees.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Ronnie Sylvia seeks to appeal the district court's orders dismissing his 42 U.S.C. § 1983 (2006) complaint and denying his motion for reconsideration. We dismiss the appeal for lack of jurisdiction because the notice of appeal was not timely filed.

Parties are accorded thirty days after the entry of the district court's final judgment or order to note an appeal, Fed. R. App. P. 4(a)(1)(A), unless the district court extends the appeal period under Fed. R. App. P. 4(a)(5), or reopens the appeal period under Fed. R. App. P. 4(a)(6). This appeal period is "mandatory and jurisdictional." Browder v. Dir., Dep't of Corr., 434 U.S. 257, 264 (1978) (quoting United States v. Robinson, 361 U.S. 220, 229 (1960)).

The district court's orders were entered on the docket on August 7, 2007, and August 28, 2007. The notice of appeal was filed no sooner than April 9, 2009. Because Sylvia failed to file a timely notice of appeal or to obtain an extension or reopening of the appeal period, we deny his motion for appointment of counsel and dismiss the appeal. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and oral argument would not aid the decisional process.

DISMISSED